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Loan bill gets work: N.C. predatory lending law is heavy influence

By Mary M. Shaffrey

Congress is expected to begin work this fall on a national law targeting predatory lending that is based in large part on a North Carolina law.

Reps. Mel Watt, D-12th, and Brad Miller, D-13th, have been working with House Financial Services Committee Chairman Barney Frank, D-Mass., to draft legislation that would prohibit predatory lending.

"We think North Carolina will be a significant part of it, but we don't know what the final version will be," Watt said.

North Carolina's anti-predatory law bars such practices as charging penalties for paying off mortgages of less than \$150,000 early or a lender repeatedly refinancing an existing loan to collect upfront fees that strip equity. It also restricts the terms of high-cost home loans.

The law was the first in the nation at the state level and was passed in 1999.

A 2003 study by UNC Chapel Hill concluded that the North Carolina law did curtail some predatory lending practices but that it did not reduce the amount of credit available to high-risk borrowers.

Predatory lending practices typically target low-income borrowers, who are often minorities or people on fixed incomes, such as military personnel.

There is no specific definition about what exactly predatory lending entails, though most observers believe that the description applies when lenders take advantage of borrowers by charging high interest rates and consider only the value of a borrower's assets, as opposed to what the borrower can afford to pay.

Miller and Watt have introduced legislation in the past modeled after the North Carolina law, but it never went far when Republicans controlled Congress.

Since Democrats took over in January, the House Financial Services Committee - of which Watt and Miller are both members - has held several hearings on predatory lending. Miller said that the hearings helped establish a framework for the bill. Since then, the three men have been working to draft the legislation.

Miller said he expects the legislation to be introduced later this fall, with hearings as early as October.

Both representatives say that the law, if enacted, will not ease the credit crunch caused by questionable lending practices. However, they argue that the law could prevent another spike in foreclosures in the future.

"If this bill had been in effect earlier, we'd be in a hell of a lot better place than we are now," Watt said.

But not all North Carolinians think this is the right approach.

Rep. Patrick McHenry, R-10th, is also a member of the Financial Services Committee. He thinks that the North Carolina law is a bad one, and that access to credit would suffer if a law is

enacted at the federal level.

McHenry cites a 2004 study by the Mortgage Bankers Association that concluded that access to credit under the North Carolina law declined. Instead of placing restrictions on how the industry does business, he would like to see more uniform standards telling borrowers all the terms of their loan, so that they can make informed decisions.

"We should have more disclosure about the loan terms that people are signing on to ... a one-page summary that every borrower sees explaining everything," he said.

McHenry said he is hoping to offer an amendment to the committee bill, or to offer it as a separate piece of legislation.

Kurt Pfotenhauer is the chief lobbyist for the Mortgage Bankers Association. He stressed that he had not seen the final version of the bill, but said he agrees with McHenry's assessment. He supports McHenry's idea of more open disclosure, and warns that a bill such as the one proposed by Watt and Miller, could hurt those most in need of credit.

Pfotenhauer said that pre-payment penalties - which the Democratic bill would enact - are necessary so that lenders can budget appropriately, which allows them to offer a wider variety of loans.

For example, if a prospective homeowner can't afford a loan at 6.5 percent, a lender might offer the same loan at 6 percent, with the agreement that the loan not be pre-paid. Under this bill, borrowers would not have that option, and they probably would not be able to buy the home.

"Eliminating options takes away credit," he said.

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